

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1355 Automated External Defibrillators
SPONSOR(S): Steinberg and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2556

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Insurance, Business & Financial Affairs Policy Committee		Livingston	Cooper
2)	Elder & Family Services Policy Committee			
3)	Full Appropriations Council on Education & Economic Development			
4)	General Government Policy Council			
5)				

SUMMARY ANALYSIS

An “automated external defibrillator” (AED) is statutorily defined to mean, “a lifesaving defibrillator device that: is commercially distributed in accordance with the Federal Food, Drug, and Cosmetic Act; is capable of recognizing the presence or absence of ventricular fibrillation; is capable of determining without intervention by the user of the device whether defibrillation should be performed; and upon determining that defibrillation should be performed, is able to deliver an electrical shock to an individual.”

The bill primarily addresses the placement of AEDs at places of public assembly. The bill defines the phrase “place of public assembly” to mean a location with a seating capacity of at least 1,000 people and includes, but is not limited to, any facility used for the conduct of sporting events and any location used for the presentation of musical performances or concerts. The bill specifies that the term does not include any church, synagogue, or other not-for-profit religious organization or any public association or public library.

The bill requires the person responsible for a building owned or leased by the state and a person responsible for a place of public assembly to notify the local emergency services medical director of the location of an AED at that facility. The bill requires the local medical director to maintain a registry of these AED locations.

The bill expands the requirement that the State Surgeon General adopt rules to establish guidelines on the placement of AEDs in state facilities to include guidelines for the placement of AEDs in places of public assembly.

The bill requires the person responsible for the location of a place of public assembly that is used for publicly or privately sponsored events or activities to require the presence of at least one employee or volunteer who is trained in the operation and use of an AED. The bill specifies that the provisions of the Good Samaritan Act and the Cardiac Arrest Survival Act relating to immunity from civil liability apply to an employee or volunteer.

The bill specifies that provisions of a local ordinance may exceed the requirements for placement of AEDs at locations of a place of public assembly, as specified in the bill.

The bill is not anticipated to have a significant fiscal impact on government entities.

The bill has an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present situation

Section 401.2915, F.S., specifies that it is the intent of the Legislature that an AED may be used by any person for the purpose of saving the life of a person in cardiac arrest. The statement of intent of s. 401.2915, F.S., also specifies "the Legislature intends to encourage training in lifesaving first aid and set standards for and encourage the use of [an AED]." This section provides that in order to ensure public health and safety a person who "uses" an AED is encouraged to:

1. obtain appropriate training, to include completion of a course in cardiopulmonary resuscitation or successful completion of a basic first aid course that includes cardiopulmonary resuscitation training, and demonstrated proficiency in the use of an AED and
2. activate the emergency medical services system as soon as possible upon use of an AED.

This section also provides that a person who "possesses" an AED is encouraged to register with the local emergency medical services director of the existence and location of the AED.

An "automated external defibrillator" (AED) is statutorily defined to mean"

a lifesaving defibrillator device that:

1. Is commercially distributed in accordance with the Federal Food, Drug, and Cosmetic Act.
2. Is capable of recognizing the presence or absence of ventricular fibrillation, and is capable of determining without intervention by the user of the device whether defibrillation should be performed.
3. Upon determining that defibrillation should be performed, is able to deliver an electrical shock to an individual.¹

Effect of proposed changes

The bill creates a definition of the phrase "place of public assembly:"

"For purposes of this section (768.1326 Placement of automated external defibrillators in state buildings; rulemaking authority.--) the term "place of public assembly" means a location with a

¹ S. 768.1325(2)(b), F.S.

seating capacity of at least 1,000 people and includes, but is not limited to, any stadium, ballpark, gymnasium, field house, arena, civic center, or similar facility used for the conduct of sporting events and any concert hall, recital hall, theater, indoor or outdoor amphitheatre, or other auditorium used for the presentation of musical performances or concerts. The term does not include any church, synagogue, or other not-for-profit religious organization or any public association or public library.”

The bill requires the owner of property or the administrator/operator responsible for the oversight of events on property where an AED is located and the property is used as a place of public assembly, to notify the local emergency services medical director of the location of the AED at that facility.

The bill requires a state agency responsible for a building owned or leased by the agency where an AED is located and the building is used as a place of public assembly, to notify the local emergency services medical director of the location of the AED at that facility.

The bill requires the local medical director to maintain a registry of these AED locations.

Present situation

Section 768.13, F.S., the Good Samaritan Act, among other provisions, provides immunity from civil damages for a person who renders emergency care, without objection of the injured victim, as long as the person has acted as an ordinary reasonably prudent person would have acted under the same or similar circumstances.

Section 768.1325, F.S., the Cardiac Arrest Survival Act (Act), provides immunity from civil liability for a person who uses or attempts to use, without the objection of the victim, an AED in a perceived medical emergency. A person is eligible for immunity based on acquiring the AED and making the device available for use. The Act waives the training requirement if the device is equipped with audible, visual, or written instructions on its use, including any visual or written instructions posted on or adjacent to the device.

The Act also specifies that:

This section does not establish any cause of action. This section does not require that an automated external defibrillator device be placed at any building or other location or require an acquirer to make available on its premises one or more employees or agents trained in the use of the device.

Section 768.1326, F.S., provides, in part, that the State Surgeon General adopt rules to establish guidelines on the placement of AEDs in buildings owned or leased by the state. The Secretary of Management Services is required to assist the State Surgeon General in the development of the guidelines.

This section further specifies that Surgeon General's recommendations include:

- a reference list of appropriate training courses in the use of such devices, including the role of cardiopulmonary resuscitation;
- the extent to which such devices may be used by laypersons;
- manufacturer recommended maintenance and testing of the devices; and
- coordination with local emergency medical services systems regarding the incidents of use of the devices.

Effect of proposed changes

The bill expands the requirement that the State Surgeon General adopt rules to establish guidelines on the placement of AEDs in state facilities to include guidelines for the placement of AEDs in places of public assembly.

The bill requires the person responsible for the location of a place of public assembly that is used for publicly or privately sponsored events or activities to require the presence at the event or activity of at least one employee or volunteer who is trained in the operation and use of an AED. The bill specifies that the provisions of the Good Samaritan Act and the Cardiac Arrest Survival Act apply to an employee or volunteer “under this section (s. 768.1326, F.S.).”

The bill specifies that the requirements of this section may be superseded by local ordinance that expands the requirements for placement of AEDs at locations of a place of public assembly.

B. SECTION DIRECTORY:

Section 1. Amends s. 401.2915, F.S., to require notification of the local emergency services medical director of the location of an AED and require the director to maintain a registry of AED locations.

Section 2. Amends s. 768.1326, F.S., to require the State Surgeon General to adopt rules to establish guidelines on the placement of AEDs in places of public assembly.

Section 3. Effective date – July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Not anticipated to be significant.

2. Expenditures:

Not anticipated to be significant.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The exact economic impact on the private sector is unknown.

D. FISCAL COMMENTS:

The Department of Health anticipates there to be no impact on the department.²

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

² E-mail from: Jacqui_Sosa@doh.state.fl.us [mailto:Jacqui_Sosa@doh.state.fl.us], sent: Friday, March 12, 2010, to: Reshard, Debra, IBFA.

This bill does not appear to require counties or municipalities to spend funds or to take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Currently, s. 768.1326, F.S., provides that the Surgeon General adopt rules to establish guidelines on the placement of AEDs in state buildings. The bill adds "and in places of public assembly."

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES